

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS ARMENDARIZ,

Defendant.

Nos. CV 10-1092 BB/RLP  
CV 10-0971 BB/WDS  
CR 95-0353 BB

**ORDER**

This matter is before the Court *sua sponte*, see *Landis v. North American Co.*, 299 U.S. 248, 254 (1936) (noting “the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants”), on Defendant’s Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence. The motion was filed on November 12, 2010, in the criminal case (CR Doc. 379) and as the initiating pleading in case No. CV 10-1092 BB/RLP.

Earlier, in civil case No. CV 10-0971 BB/WDS, Defendant filed an initiating pleading entitled Motion For Leave To File A Second Or Successive Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside Or Correct Sentence (CR Doc. 376). Because Defendant had not previously sought relief under § 2255, the Court directed him to submit a § 2255 motion on an approved form. Defendant complied, but a new civil proceeding (CV 10-1092 BB/RLP) was inadvertently opened for the corrected motion. The Clerk will be directed to enter Defendant’s motion on the docket in case No. CV 10-0971 BB/WDS and to administratively close case No. CV 10-1092 BB/RLP.

IT IS THEREFORE ORDERED that the Clerk is directed to enter Defendant’s § 2255

motion on the docket in case No. CV 10-0971 BB/WDS and to administratively close case No. CV 10-1092 BB/RLP; and all future filings in this § 2255 proceeding must be captioned only in cases No. CV 10-0971 BB/WDS and No. CR 95-0353 BB;

IT IS FURTHER ORDERED that the Clerk is directed to forward to the United States of America a copy of Defendant's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence and supporting papers and exhibits, if any, together with a copy of this order;

IT IS FURTHER ORDERED that, within twenty-three days of entry of this order, the United States answer Defendant's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence.



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UNITED STATES MAGISTRATE JUDGE